IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3861 OF 2006.

1. Mrs.Reshma Suresh Goklaney
   Aged about 52 years, Adult,
   Indian Inhabitant, employed as
   Student Counsellor, Wigan & Leigh
   College (India) Ltd., having
   place of address at 101, Sane
   Guruji Marg, Jacob Circle,
   Mahalaxmi, Mumbai 400 011.

2. Mr.Avinash Srinarayan Singh,
   Aged about 36 years, Adult,
   Indian Inhabitant, formerly
   Centre Head, Wigan & Leigh
   College (India) Ltd., having
   place of address at 101, Sane
   Guruji Marg, Jacob Circle,
   Mahalami, Mumbai 400 011. ... Applicants.

Versus.

1. State of Maharashtra

2. Mr.Vijay Krishnadas Parikh,
   aged about 49 years, residing
   at A-105, Chandulal Park,
   Opposte State Bank of India,
   Station Road, Bhayander,
   Thane 401 101.

3. Senior Inspector of Police,
   Agripada Police Station,
   Agripara, Mumbai. ... Respondents.

Shri R.Satyanarayanan for the Applicants.
Shri U.V.Nikam, A.P.P. for the Respondents Nos.1 and 3.
Ms.Sharmila Kaushik for Respondent No.2.

CORAM : ABHAY S.OKA, J.

DATED : 13th November, 2006.

ORAL JUDGMENT.:

1. Rule. The learned A.P.P. waives service for Respondents Nos.1 and 3. The Advocate for Respondent

No.2 waives service. Considering the facts and circumstances of the case, taken up for hearing forthwith.

2. The 2nd Respondent lodged a F.I.R alleging commission of offence under section 420 read with section 34 of the Indian Penal Code against the Applicants. The case of the second Respondent is that his son was desirous of seeking admission in a College for the degree course in Business Administration. The case of the 2nd Respondent is that when his son was sent for counselling, he was given to understand that the duration of the course will be 3 years. According to the 2nd Respondent it was represented that during the first two years, the candidate would be in India and for the last year the candidate would be required to stay in U.K. The case is that the 2nd Respondent paid necessary fees for the first two academic years. For the third year, certain amount was paid by way of fees in foreign currency. According to the case of the 2nd Respondent when his son travelled to U.K. and approached the concerned college, he was denied admission on the ground that certain certificate was not procured by him.

3. The 2nd Respondent has today filed an affidavit. In paragraph 4 to 7 of the said affidavit, the 2nd Respondent has stated thus:

"4. I submit that after the filing of the Complaint, whilst the investigation was in progress, myself and the Applicants' institution had arrived at a settlement with the Wigan & Leigh College, pursuant to which I 2 jointly my son had addressed letters dated 25.07.2007 to the said college, as well as well as to the British Commission, British Council Division and the Respondent No.3 stating that I am not interested in pursuing the case further. Annexed herewith and marked EXHIBIT "A" (COLLECTIVELY) are copies of the said 3 letters.

5. I say that in view of the above settlement and further in view of the fact that the disputes had been settled amicably, I am not desirous of proceeding further and therefore, I record my no objection if this Hon'ble Court quashes the proceedings against the Applicants presently pending before them.

6. I further say that after the filing of the case, it was only with the assistance of Wign & Leigh College, I could procure admission in West London College for the

desired course and the course taken by my son of the Respondent No.2 is almost on the verge of completion.

7. I, therefore, have no objection, if the prayers of the Applicants are allowed."

4. The prayer in this Application is under section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings being Case No.133/PW/2006 pending in the Court of the Metropolitan Magistrate, 46th Court, Mazgaon, filed by the 2nd Respondent. In view of what is stated by the 2nd Respondent in the affidavit, I find that a case is made out for exercising power under section 482 of the said Code. In view of what is stated in the affidavit-in-reply, continuation of criminal proceedings will cause harassment to the Applicant and to the 2nd Respondent and no purpose will be served by continuing the prosecution. Hence a case is made out for quashing the proceedings.

5. Hence the following order is passed:

i) Rule is made absolute in terms of prayer clause (a).

ii) Parties to act on an authenticated copy of

this order.

Judge.